

Tithes and oblations.

According to the Lawes esta:
blished in the Church of England.

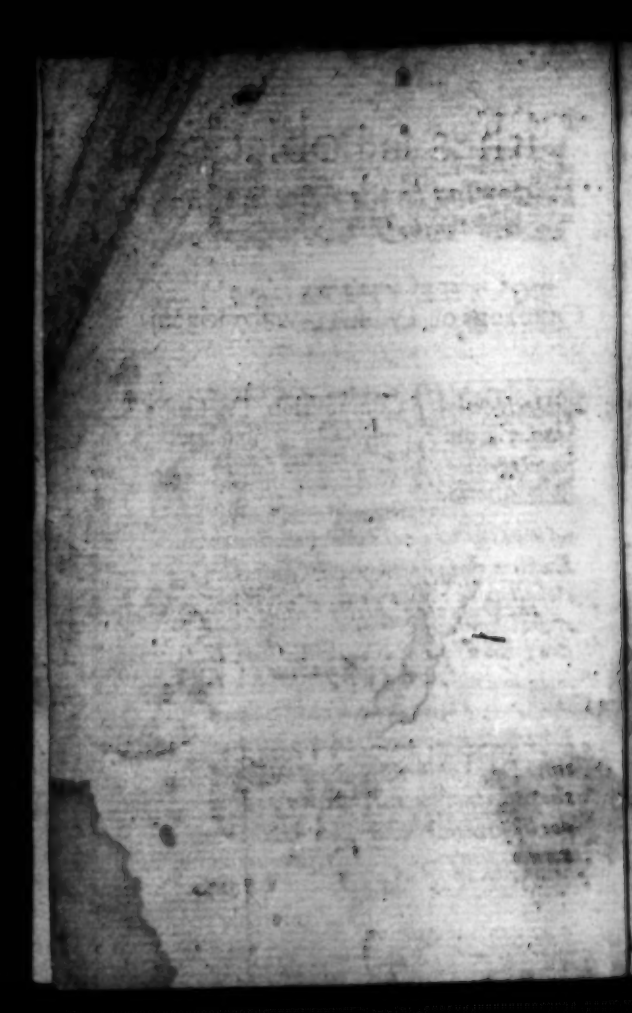
Containing,
Questions of Tything, with their an-
swers and resolutions,

A Declaration of Composition, Transacti-
on, Custome, prescription, priuiledge,
together with such statute Lawes
which concern the right
of Tythe.

To the great benefite and instruction of all
the *Queenes* Subiects, hauing either
right to demand them, or bound
by duty to pay them.



PRINTED 1595.





TO THE (VRTEOVVS
& friendlie Reader



He Cannon and Cinill
lawes (gentle Reader) si-
thence the time that King
HENRIE of famous
memorie the eight, dis-
membred their bodies, and restored to the
Diadem of the land (ouer the state Ec-
clesiasticall) the ancient iurisdiccions
of the Crowne, they haue and do lie bid-
den: such of them as were then conti-
nued and allowed by K. EDWARD
the sixth, are now termed the *Queenes*
Ecclesiasticall Lawes, the former sta-
tutes, are reuinted by her Maiestie in
the first yeare of her raign, these lawes
doe lie hidden in darke and dangerous
corners, in practise onely familiar in

TO THE READER.

*Consistories, and their knowledge to
the countries obscure: Hence are the
manifold vntimely Customes and
Prescriptions that we haue, I speake
not against them, neither Customes,
nor Prescription that be perfect now,
and in their perfect being: if therfore
some insight into these lawes and know-
ledge succeeding this long obscuritie
may worke another effect in time to
come, none can say vprightly now that
he is, may be, or his posteritie after
(if not benefited, damnified thereby)
happily I may be charged in translating
to haue damnified the Lawes, I haue
somewhat shadowed, I confesse, their
first originall grace. such beautie haue
they and elegancie too in the Latine
tongue: but I write vnto Englishmen,
and such as not so much affecte to
beare of the beautie, as they bee de-
sirous to vnderstande the benefite of
their Lawes, for such haue I shewed
and made plain and manifest this kind
of Learning, and replenished the same,*
(as

TO THE READER.

(as my slender skill would serue) with
necessarie lawes: not butt full, being
considered: as they are deliuered nor
preiudiciall to the Royall prerogative,
nor repugnant to the Lawes, Sta-
tutes nor Customes of this Lande.
Tythes by sale, bee turned into Cha-
tels, and made of Spirituall, Tempo-
rall thinges: in debate (of the righte
of patronage) in Tythes, and exceeding
the fourth parte of the value of the
Church, (where great wood is deman-
ded in the name of *Silua Cedua* in
Tythes and oblations, where there is
any state of inheritance, and where they
be demanded and bee neither due nor
accustomed) the Queenes prohibition
doth lie in all these cases and no con-
sultation: otherwise and without such
Temporall mixtures, prohibition
hath no place: but the Iudge Ec-
clesiasticall hath power to proceede,
notwithstanding the Queenes pro-
hibition. Conceiuing them therefore,
gentle

TO THE READER.

(Gentle Reader) as they be meant, and
mentioned to be presented unto thee:
as they bee meere ly spiritual Tubes
and oblations, and without any tempo-
rall mixture, thou shalt not misconster
the Authour, nor deccaine thy selfe.
Farewell.



A DISCOVRSE SHEW-
ing what tithes is, and the nature
thereof, and how it
is diuided.



The according vnto the
Latines is called *Deci-*
ma, and is thus defined,
vz. Omnium bonorum
licite quesitorum pars

Deo data, & diuina constitutione deo
debita. i. Of all lawfull increase and
gaine a certaine part by diuine consti-
tution due and appertaining vnto God :
which part or portion of increase was
commanded vnto *Moses*, by whom it
was deliuered (at the appointment of
God) to be paid to the sonnes of *Leui*,
for their ministrie in the *Tabernacle*,
wherein they serued, as in the 15. of
Numbers it appeareth, how the Lord
gane

gave unto the children of *Leuy* all the
tenth in *Israel*, for their service in the
Tabernacle. And in the 18. of *Deut.*
the first fruites of corne, wine, and oyl,
and the first fruites of the fleece of
sheepe is given by God unto the priests
of the *Leuites*. *Abraham* gave tithes
unto *Melchisedecke* of all that he had,
and *Jacob* vowed to pay the tenth un-
to the Lord of all that he possessed, if
God prospered him in his iourney: by
which testimonies it appeareth evi-
dently, that the payment of Tithes or
a certain portion of increase is ground-
ed upon the expresse worde of God:
And to this effect is that saying of
Gerson: that *Solutio decimarum Sa-*
cerdotibus, est de iure divino quate-
nus iidem sustententur: sed quatenus
hanc vel illam assignare, aut in al-
ios redditus commutare iuris posuimus
existit. The payment of Tithes or
Tithes to the Priests, is of the law
of God, and by diuine constitution,
that they may thereof liue, and bee su-
stained:

Exceed: but to assigne this portion
or that, or to alter the sayde Dismes
or Tithes to other rates or prestes,
pertaineth to the Positive lawes of
man, by reason of which converting
and altering of Tithes, there hath
in times passe, and there doeth day-
lie at this present arise and growe
manie controuersies doubtess and
questions, as well in respect of com-
positions, of what strength and va-
lidity they are of: For the altering
and chaunging of diuers portions of
Tithes in a summes of money, made
sometimes by the parties interrested
themselves: Others by the consent of
the Patron, Ordinarie and Incum-
bent, for the binding and concluding
of the parties, as also in regard of di-
uers and sundrie prescriptions which
hauing once a verie lawefull and
reasonable beginning, haue and are
accepted of by continuance of time.
And because that the sayde Pre-

tythe of
timber.

4
criptions be neither against the Lawe
of God, nor repugnant to the com-
mon Lawes and Statutes of this
Realme, therefore haue they obta-
ined strength, allowance, and approba-
tion among the learned of this lande,
as the speciall prescription of not pay-
ing of Tythes of Timber wood, being
of the growth of twenty yeares and a-
bout, which prescription hath bene of
long continuance: so by reason of a
Statute made in the five and fourtieth
yeare of the raigne of King *Edwardo*
the thirde, intituled *Syna cedna*, it
was enacted and established, that if a
man were impleaded or sued in the
Court Chiffen: before the Ordina-
rie for his wilnes or Tythe of wood of
of the age of twentie yeares or about,
that a prohibition in that case shoulde
be awarded: and the Spiritual court
to proceed no further: and so the com-
mon Lawe is, and the opinion com-
monly receiued, that before the ma-
king of the saide Statute, a prohibi-
tion

5

tion did lie in that case, by reason of a
prescription, as the practice and com-
mon experience of this time is, that
some prohibitions are grounded vpon
the prescription, and some vpon the
Statute before rehearsed: and there
is great benefit to the partie, that ma-
keth his election accordingly therein:
so that it should seeme that the said sta-
tute of 45. of King Edward the third,
is nothing else but a confirmation and
strengthening of that Prescription,
which before was in vse and allowed
of. And albeit a man cannot prescribe
in not paying of Tithes and Dismes,
but in the manner of his paying: that is,
in allowing some portion of the sayde
Tithe, or paying a somme of money
for the same: Yet it is taken that the
Prescription of not paying of Tithe
of Wood above the age of twentie
yeares, because it is not generall of al
Wood, as of Maple, Hornebeam,
Sallowe, Hasell and such like, but on-
ly of such trees, which consist of value,

and will serve for building, as Oaks,
 Elm, Ash, and such like timber trees,
 The same prescription to be verie good
 & reasonable. But if the case were cre-
 nally of Corn or grasse. It is taken
 that the same were no good prescrip-
 tion. For it is saide, that there is no
 Tithé, but it is eyther *Prediall*, as that
 which doeth arise and growe by rea-
 son & virtue of the grounds, as fruites
 and increase of Beastes, Fishes and
 Fowles: or *Personall*, as that which
 doeth arise and come by means of law-
 full and honest commutatie obtained &
 procured by Act, science, & the manu-
 all occupation of some person: or *mixt*
 as that which doeth arise and growe
 partly by the groundes, and partly by
 the care, keeping, labour, and industry
 of some person. Nowe the Tithé of
 Timber trees, when thae they are cut
 downe and solde, is not to bee layde
Prediall Tithé, for the *Prediall*
Tithes of Trees is intended to bee
 of such Trees as bring forth frukes
 and

prediall tithes

personall.

mixt.

and increase yearlie, as the Apple,
 Pearre, and Plumme trees and such
 like, which beare Fruite, whereof
 the Proball Tithe is the Apple,
 Pearre, and the Fruite which doth come
 of them yearlie. And if the Owner
 or partie interessed in such fruit Trees
 doeth by his graunt giue unto another
 man *omnes arbores*, his fruit trees do
 not passe by that graunt, or if hee
 doe afterwarde sell and cutte them
 downe, there is no Tithe due, to
 bee payde, as some doe holde; and
 the reason is, that two Tithes may
 not bee payd of one and the selfe same
 thing: and yet it is certaine, that
 when the Tyth is payd of the Lambe
 yet shall the Tythe bee payde of the
 Wooll of the same Sheepe, for that
 they are severall increases: For the
 increase of the Lambe is one, and the
 increase of the Wooll is another.
 Some may object that in the same
 sorte the the fruite of the Tree, is one
 increase, and the selling thereof is

of fowen

another increase: but the aim were to
 be verie plaine, that there is great diuer-
 ſity betwene theſe two caſes, for di-
 vers cauſes, whereof one is, for that
 the property and nature of Woolle,
 when it is on the ſheepes backe, is not
 to growe over a yeare, or a certaine
 time: and if it be not cut, and clipped in
 good and ſeaſonable time, it will come
 to nought: ſo that the clipping and the
 ring is the perfection and preſervati-
 on thereof, and a cauſe of new increaſe
 and ſo it is of corne and graſſe, which
 muſt be cut and taken in time: oth-
 erwiſe it will periſh and come to nought.
 But otherwiſe it is of Timber trees
 that be cut & felled: for that the felling
 and cutting is not the preſervation of
 them, neither doth it cauſe them to en-
 creaſe, but to decay: for moſt common-
 ly the trees would be the better if they
 might grow ſtill, and therefore for that
 the felling is the cauſe of the decay, and
 not of increaſe, therefore it ſeemeth that
There can be no mediall: Either a liſe ther-

of. And some doe alleadge the place
out of *Leuiticus*, the 27. Chap. where
God commaundeth that all the tithes
of the lande, both of the seede of the
grounde, and of the fruites of trees to
be sanctified and holy vnto him. So
that in this place God giueth no com-
mandement for the payme[n]t of the tithes
of trees, but for the fruites of the trees
onely. Nowe concerning Personall
Tithes, they are saide to bee due and
payable, not for any increase of the
grounde, but in regard of the person,
and of such profite and commodity as
commeth by the labour or industrie of
the person, as by handicrafts, and buy-
ing and selling, which personall tithes
as some haue taken it, haue not bene
payde to the Church by compulsion,
but by the conscience of the parties.
Nowe be it by the experience and prac-
tise of these times, the Spinitarys doe to
demand these personall tithes, as the
Spiritual Court, as well as Pre-
biall: and that is by force of the Pro-
uinciall

vicinall constitution: that was made in
 the time of *Robert Winchelsey* Arch-
 bishop of *Canterburie*, by the which it
 was ordayned that *Personall Tithes*
 should be paid of *Craftes* and *Merchan-
 dize*, and of the gain of buying & selling
 and in likewise of *Carpenters*, *Smiths*,
Wearers, *Palons*, and other such
Mechanicall trades, in the payment
 of which *Personall Tithes*, regard spe-
 ciallie is to be had, not of the value of
 thing, so bought, so'de, or obtayned.
 But the cleare gaines and commodities
 that cometh by the same: for expences
 & charges that are made and bestowed
 aswell for the thing, in the thing, as
 about the thing are likewise to bee de-
 ducted and allowed out of the same.
 To conclude therefore, although there
 be some diuersitie and contrarietie of
 opinions among the Learned concer-
 ning the payment of some kind of tithes:
 yet let not these doubtles amonge
 them giue an occasion to any parson
 to withhold his Tithes, that of right
 ought

ought to be payde, neither to alter the
portion therein, before accustomed and
due: least that this saying bee verified,
that is, that if we will not paie our
rentes from by nine partes shall be ta-
ken away, and one p the tenth shall bee
left unto vs.

The



THE FIRST QUESTION

De Frugibus.

Of harvest fruites, sowne, mowne,
reaped, gathered, bound, or loose, in
heap, stocke, or sheaf.

I **W**Hen they be tirbale, and
such other prediall tithes,
whether it be lawfull for
the Owner to dispose any manner
of any of any parte of the fruites,
before division made. & the tenth
part severed fr^{om} the ninth part.

THE ANSWERE TO the first Question.

I Parsones out of their Tyne,
and other harvest fruites, specif.

ed vnder the woꝛde *Frugibus* (before
their Tithes be leuered and assigned
out of the same : diminish their fruites
some one way, some another, admit to
godly or prophane vles : or as their
manner hath beene to the satisfiing
therein o. their labourers wages: the
question is whether this be lawfull: It
is answered, It is not lawfull, but a
fraude to the Church: for this allow-
ance (if any such bee) not otherwise
ought to bee made, but fourth of the
nine partes: and the reason is, *Decima
debet solui sine diminutione, &c.* Tithe
must be paid without any diminishing.

The second question de frugibus,

- 2 [If a straunger shall prescribe
Tithes in another parish, & there
shal happen afterward barren &
waste ground to be tilled, whether
the stranger that prescribeth, or
the Church where the ground ly-
eth shal reape the tithes.

THE ANSWER TO
the second Question.

The Parson of the Rectory
of A. *Iure prescriptiua*,
i. by right of Prescription,
hath interest in & to the pre-
sall tithes of the Parish Church of B.
where there be converted into tillage
others barren, heath & wast grounds,
that neuer before yielded any profite to
the Church, the question is nowe of
these tithes, and which of the Churches
shall haue them. It is answered,
that the Parish Church of B. shall haue
these tithes because they be *decime no-
ualis*, that is, arising of such grounds
that neuer were manured, nor yielded
before any profite at all to the Church:
and the reason is, by the foundation of
euerie Church, the Tithes in gene-
rall of that and euery Parish are due
to their owne proper and peculiar
Church. Nowe for so much as the
Church

Church of A. coulde neuer be-
 long bee in possession of the Tithes of
 these waste groundes, because they
 neuer were in being: And the
 Lawe is, that *Tantum prescriptum*
est, quantum est possessum, & non plus.
 that is, so much and no more in pre-
 scription, than in possession: And as
 gaine, in that Prescription is not ex-
 tended *Ad futura*. It reacheth not
 vnto profits of rishable groundes to
 come, *Summa equitas est*, the pre-
 mises considered, it standeth with
 greate equity in this case, that the
 Church of B. should reape and recieue,
 these Tithes.

The third question de
frugibus.

3 **I**F one shall haue right of Tithes
 in a Wood, and that Wood be-
 come afterwarde arable
 groundes, whether his right conti-
 nueth in the corne.

Here

THE ANSWER TO
the third Question.

HERE vnderstande that where
one shall be in possession of the
Tithe of Corne, or of pasture, or of
any pcediall Tithes whatsoener, aris-
ing in the groundes wherein hee pre-
scribech. howbeit, afterwards there
be planted, or set or sowne in the same
any strange plant, seed, or hearbe, that
neuer grew before in these groundes,
fo) example, Billet is sowne or sowne
from, where Corne hath bene sowne
vsuallie, and euer before, and as the
manner is in some partes of this
land to sowe in their pasture groundes,
the hearbe that is called *Glastum* or *I-
satis*. Cesar writeth of the olde Bri-
tons that they vsed with this hearbe to
smeare their faces to the ende to seeme
terrible to their Enemies in warre, we
call it in English *Woad* or *Woad*. A-
gaine, Apples or nuts be not to be plan-
ted

ted where they neuer grew before :
 and so of woods that be converted to
 arable grounds the Tithes in al these
 cases be payable as before they were
 of the forimes fruites, and to whome
 the former fruites were tishable be-
 fore, namelie to the Parson or church
 that prescribeth, and the reason is, for
 that *Prescriptio est realis censenda,*
terrae concernens, non speciem fructu-
um perceptorum. i. Prescription is
 real, that is: respecting not the new
 or neuer tished fruites, but the tisha-
 ble groundes that bringeth them forth:
 In respect whereof, that is, of the
 groundes, the tithes whercof haue
 bene (without discontinuance or other
 interruption) continued and possessed,
 it is thus affirmed, (in these cases,) of
 Prescription. *viz. Prescriptio exten-*
ditur ad particularitatem iuris appre-
hensi, sub unico iure ut vniuersali:
 that is, Prescription is extended to e-
 very particularity of right apprehen-
 ded, as it were under that particular

as generall: otherwise it should be in
 the Owners power (chaunging the
 frutes) to prevent anothers right in the
 Tithes of his certaine, knowne, and
 titheable groundes, contrarie to the rule
 of the Lawe: For, *Id quod nostrum
 est sine facto nostro à nobis auelli non po-
 test*, That which is mine, cannot (with-
 out my fact) be taken from me. I cooke
 the statute *de non aliis*, of barren, heath
 and waste ground. 1. Ed. 6. 13 and looke
 the statute for *Prediall Tithes*, and ti-
 theable places. 2. Ed. 6. 3.

The second Question
 of Tithes.

- | | |
|---------|--|
| Tith de | <p>1 <i>SILVIS CEDVIS</i>, of
 woods felled & preserved
 to grow againe.</p> <p>2 <i>LIGNIS</i>, of wood not in
 use, nor apt for Timber,
 but for fiering.</p> <p>3 <i>THENITIIS agrorum</i>,
 of trees planted for fencing
 of</p> |
|---------|--|

of grounds in fieldes, pastures and
Hedges &c.

4 *TURNIS*, of Turnes growing in
fennish and moorish soyles, as the
Isle of Else.

1 Wood of 20. years growth and up-
wards, whether it be tubable or not &
what of the loppings of timber trees.

1 Of Wood and woods contain-
ed and specified under the words *sil-
vis ceduis, lignis, & venitiis agrorum*, some
of them not felled within the memorie
of man, peradventure not of a hundred
or two of years, there groweth a que-
stion of such woods for the tithes of the
same: It should seeme the parishioner
herein may plead for the one (against
the Parson) the statute of *silva cedua*,
that exempteth wood of twenty years
growth and upwards from the pay-
ment of tithes, & (for the other) both the
statute & prescription, in that the tithes
thereto were never paid, expounding

the Statute no further then the Sta-
 tute exp'aineth it selfe: It is answered
 by the Cannons alleadged, so far forth
 (with pro'estation) and no further then
 the Statute shall permit, that Wood
 not in use, nor apt for timber is tithable
 bodie, bough, felled or lopped. As for
Prescription it is answered, *Prescrip-*
tio locum habere non potest, ubi ille
qui in competit agere non potest, cum
cessat materia de qua experitur. i.
Prescription hath no place, where the
interested in his right can make no de-
mand, the matter ceasing whereup-
 on he should worke. For example, of
Wood neuer cut, the Tithe could ne-
 ver be demanded: But whether the
 lopping or boughes of such trees, the
 which the Common Lawes of the
 Realme account Timber, bee titha-
 ble or not, is some doubt by that Law.

When Woods be sold and sold,
who shall answer the Tithes, the buyer
or the seller.

It is answered that the Buyer shall
answer the Tithes, and the reason
is, *Decima sequitur fructum & enu-*
quere fructuum decima transferuntur
in alterum: That is, Tithes doth
followe the fruites, and frutes be trans-
lated into anothers right together with
the burthen of Tithes.

If the inheritance of a wood be
sold, that is in arreareget for tithes:
whome the parson may implead?

Whether the inheritance of a wood
is so sold that for certaine
yeares so passed, the Tithes thereof
hath bene retained and wrongfullie
subtracted from the Church the Par-
son or partie that hath right to demand
the tithes, the one or the other at his

stone choise: but he can recover but of one. But by the statutes of the Lande, the seller only, in this case shall be impleaded and sued for treble damages, 2. Ed. 6. 13. and not the buyer, who looke not the tye away.

4. *Turner among what Tithes they be reckoned.*

4. **T**urnes be tithable and comprehended under the word *Lignis*, because they be so applied, that is for fying: and reckoned in the number and amongst *Prodiall* Tithes.

The third Question.

Tith { 1. *DE PASTVRIS* of pasture grounds if they be fed, howe the tith shall be answered.

1. Of Pasture grounds when they be fed, it is a question howe the Tith shall

Shall be answered, it must be considered
 whose the groundes bee, whether the
 owners of the cattell that feed them, or
 a strangers of another parish in the
 first case, if the cattell be such that peere
 profit to the Church, the tithe is sa-
 tisfied in the fruites of the beastes. In
 the other case it must be considered of
 the Stranger whether he selleth or gi-
 ueth frank. y to the owner of the
 Cattell, the feeding and pasturage of
 his groundes: the Stranger if he sel-
 leth it, is answerable for the tenth pe-
 nie. the Parishioner if freelle he recep-
 ueth it, is answerable for the estimation.
 But note the estimation (in this case)
 shall not be answered, but where the
 groundes, which beastes be fed, peere
 otherwise no profit at all to the Church
 of which sort be horses, Oxen and such
 other barren beastes. In other profita-
 ble cattell the tyth is intended (as afore-
 said) to be answered in the fruites. But
 note that generally the occupier of the
 pasture is to paie the tythe, and the co-
 some of the land.

THE FOVRTH QVE- STION.

Take { De Feuis,
 { Of Hay.

I Haye, of what places, and what
Tube it is,

Of Haye, according to the ex-
position of the word, Tche is
payable, viz. of the grasse
withered or greene, perswured and ta-
ken in meadowe pasture, greace or smal,
or in other place or places within the
limites of the Parish wherefoer.
Question hath bene mooued of this
Tche to this effect: that is, whether
it be *Prediall* or *Personall*: It is an-
swered, to be *Prediall*: For although
the industrie and labour of the Person
may seeme and bee alleadged more to
preuaile (as they teame it) in the ma-
king thereof, than the nature of the
ground

ground in the increase: yet for that
it is pettained of the ground, and ga-
thered of and from a place certaine, in
some one or other knotone, certaine,
or limited parish, is is tithable, as o-
ther *Prediall Tithes* be, that is, in that
Parish Church, where the groundes
doe lie, without deduction of charges.

THE FIFTE QVE- STION.

De Lana.

Of Wools.

Tithe. 1 Whether the *sheepe* of
sonnes and daughters be titha-
ble or not, with their *fatchers*
wherein they doe goe.

2 Of *profites*, and increase of such
profitable beastes before mentioned,
and specified in particular under the
woydes *Lana agnis*. Question is mo-
ved to this effect. There be in one fa-
mille

while diuers persons having to the
 number of fixe, eight or ten Lambes or
 Sheep, which sheepe be depastured and
 feed, and reputed part and parcell of the
 flockes wherein they walke, couch, and
 doe feede: the question is, of their riches
 whether they be richable with þ flockes,
 or in their severall parcels. It is answ-
 red, In their severall parcels, and the
 reason is, *Animalia quæ gregibus ali-*
anis admixta sunt: remanet eorum pro-
pria non quorū sunt greges, sed quorū
sunt animalia: that is, Beasts inter-
 mingled with other mens flockes, doe
 remaine notwithstanding proper and
 peculiar unto those, not whole bee the
 flockes, but whole be the beastes. How-
 beit in countries where the sonnes and
 daughters, in their fathers power, go-
 uernment, maintenance and finding,
 shall haue such beastes or cattell inten-
 ded in law, and counted *In bonis pro-*
fectis & aduentis: that is, accruing
 and growing by their fathers and mo-
 thers, or friends gift, procurement.

otherwise, in which beastes their fa-
 thers are interrelled, in the vse and
 frutes, the bare propertie remainyng
 to the children; the tythes of these
 beastes shall be reckoned with their fa-
 thers and not in their severall parcels,
 and the reason is, *Vi ipsarum rerum*
quia in fructu sunt, & patri adquiruntur
pater soluat decimam: that is, of things
 in increase, and procured to the father.
 so shall the father be answerable for the
 Tyth, the property notwithstanding re-
 served to him as heretofore it belon-
 geth, his sonne or daughter: But for
 that *Patri potestas*, that legall power
 and prerogative of fathers is not in vse
 neither yet *Profectitium*, nor *Adventi-*
tium peculium, are known in England
 & beastes of sons & daughters here men-
 tioned (in respect of their tie) shall not
 be reckned with their fathers cattel but
 as & cattel of other strangers: and whoe
 is given by the father to his son, or to the
 daughter, is their owne, except the fa-
 ther by expresse words shal reserve the
 frutes

fruits of such Cattell so given, to himselfe.

2 Where sheepe be remooved from one parish to another, how the Tithes be divided by rate of time and proportion.

V Here such Cattell bee remooved from Parish to Parish & question be made what proportion of the Tithes is due to each Parish, the custome of the place must be observed: otherwise the Law is, *Quolibet Ecclesia pro rata temporis portione decimarum percipiet*: that is, Currie Church shall receive his tithes by rate and proportion of time: But the question is of what space this rate and proportion is meant? It is answered of thirtie daies and so to be rated by thirties from thirtie to thirtie, *Minori triginta dierum spacio in rata temporis minime computando*, that is, under lesse then the space of thirtie daies not to be counted.

And in rate and proportion of time : for
example : The Parishioner hath forty
sheepe which yeeld him at shearing
day foure score pounds of Wool: that
Church is interested intirelie in the
tithe, in whose parish the whole yeare
they couched and depastured : that
Church in the halfe, that is, in the
Tithe of fouerty poundes, where the
halfe yeare they couched and depastu-
red : that Church in twentie poundes,
where the couched three moneths, and
depastured : and so ratable foure mo-
neths, five moneths, more or lesse ac-
cordingly : and that Church in whose
parish they couched and depastured but
one moneth, that is, thirtie dayes, is on-
lie interested in the tythe of the twelfth
part thereof, that is, of the whole foure
poundes but the tenth of sixe poundes
and a halfe, and under thirtie dayes, as
afoze is sayd, is no allowance at all.
But vnderstand, that if the whole they
couch in one Parish and depasture in
another, the tithe shall be deuided.

ff

Q. 3 If strange sheep be brought to and
other parish, and there be clipped &
shorne, how they be taxable there.

A. If peradventure they come from
a strange and unknowne place to
any parish to be clipped & shorne
there the tythe must be paid, except that
it appear to the contrary, that the same
tythe be satisfied to the Church, whence
they came.

The sixth Question.

Tithe of	{	AGNIS, of Lambes.
		Vitulis, of Calves.
		Procellis, of pigges.
		Pullis, of Coltes.

Q. Whether the Parson may expect
his Lambes (the next yeare following) if
the Parishioners number in any one
yeare amounteth not to ten? and what,
if he faileth them.

I For tythes in profitable beasts,
 the Parson may expect the fall
 of the tenth the next yeare following,
 if the number in any one yeare amount-
 eth not to ten, according to the text of
 the constitution, *viz. vel expectet Re-
 tor usque ad alium annum donec ple-
 maris decimum agnum possit recipere,*
si maluerit: that is, Or let the Parson
 (if so he had rather doe) expect another
 year, til he may fully receive his tenth
 lamb. Now it falleth out the Parson
 bleth his liberty, and refuseth his lamb
 at seven; and halfe pence at five, & the
 Parsoner the yeare following hath
 neuer a Lambe at all. the question is,
 how the tythe shall be satisfied? It is
 answered (in this case) the Parson hath
 no remedy at all in law: and the reason
 is, He made his choise but euill at the
 first, *In culpa ergo in hoc sibi impute-
 tur.* It was his owne folly and his
 owne defaulte, and therefore he must
 blame himselfe. Per Lindwood af-
 firmeth in this case, that in regarde of
 the

the Church, in respect whereof tythes
ought not to be lost, and in regard of the
partie himselfe, the owner of the fruits
who without sinne cannot detain by a-
ny colour the righe from the Church
though the Parson (for his owne sake)
cannot relieue himselfe in re-
lation, that is, by right of action.

WHEN Eares be remooued, &
other such cattel and beasts
from one Parish to another, how the se-
uerall Churches bee interessed in the
Tythe of their Lambes, and such other
increase.

EARES be sometimes remooued
from grounds to grounds, from
Parish to Parish, the question is, (in
this case) of the right of their Tythes:
It is thus answered, that the Tythe
of Lambes is payable in manner and
forme as be the tythe of Calues, and
Coltes, and such other like tythable in-
crease, mentioned to be Digge, &c. of
which

which the law determineth these, viz.
*Habita ratione ad loca diversa, ubi
 gignuntur, oriuntur, & nutriuntur, &
 ad mores quam traxerint in eisdem
 particulariter decidentur,* They bee
 tythable by rate and proportion (parti-
 cularly) to the severall Churches in
 whose parishes they were ingendred,
 brought forth, and nourished: for ex-
 ample. The Cowe goeth five moneths
 with her lamb, they put them together
 the male and female the laste of Sep-
 tember, where they coupled remaine
 one moneth: they be remooved to a se-
 cond Parish, to a thirde, to a fourth, and
 to a fift, where they depastured severall
 moneths: in this case *unus quisque pro
 tempore suo*: Every Parson for his
 time, that is (the severall times and
 places considered) the severall Chur-
 ches in the tythes have severall rights
 accordingly.

ratio [et] [et] [et]
 p[ar]och[ia]l[is]
 [et] [et] [et]
 the ewe go
 5 moneths
 with her lam

3 Of Lamb, calf, kid, colt, pig, and
 when is their tythable time.

D

3 As

3 **A**s touching the Question of their tickable time, it is answered thus, *Fecus oblectans esse debet antequam prestetur*, that is, they must be measured measurable, or of strength to live without the Dam, except that custom have observed therein a time certain, the which must likewise be observed.

The seventh Question.

Titb { De lacte. Of milke.
 { De Caseo, Of Cheefe.

1 Milke and cheefe, how and when they be tickable.

1 Milke and cheefe v. z. of kine, of sheep, or of Gotes, they be reckoned as *In pecudum fructu*. In the increase of such cattell, as also of Calfe, kid, and lambe, wherof mention is made in the six and six questions before, and touching question to be made suppose of the milke, when it is perceived and taken,

Item of the nine partes therof (when the tith is deducted) there be made tenn cheeses. It is answered in this case the cheeses are to be tythed : and so of the other: bryefly, they be tythable euer of them in their seasons, and so long, and so soone, as either milke or cheese shall be perceiued and taken (in their proper kinde) by the Parishioner. there can be no custome of intermission to the currie.

2 Cattel fed in one parish, and couch in another, how the profits be tythed.

3 **V**hen cattell be depastured in one parish, and couch in another, in this case it may be demanded what the law determineth of the tith. It is answered that *Inter Rectores diuidentur* that is, that the Parsons or Incumbents shall diuide the same.

3 Where Cheese is titbale, and the number of cattel so small that none can be made, how the tithes shal be answered for their small proportion.

3VVhere such Tithes be payable and some of the parishioners haue but only three or two, or peradventure but one only Cow, and these be milked but each other day, by reason wherof the Parishioner can make no Cheese at all: What is the Churches right in this case? It is answered, that *Consuetudini locorum duximus relin- quendum*, the custom of the place must be observed: provided that the custom be, that *Certū quid soluat*, that some- what be paid in consideration & leuie. For custome herein (as in all other ca- ses of tythes) cannot exclude *salutio- nem decime*. It cannot entirely take away the payment of the Tythes of such profit as may arise: but it may moderate the payment of tythes, as to pay

pay somewhat in allowance. Vther
 are also by a prouinciall constitution of
 England are referred Calf, colt, Pig,
 and such like, that they cannot bee ty-
 thed: but if the Parishoner shall haue
 fixe Lambes or vnder, he shall paye
 for his tithes for euery Lambe a halfe
 pence: if seuen Lambes he shall paye to a
 lambe for his Tythe and receiue thre
 halfe pence, if eight, a pennie: if nine
 the parishoner onely receiue a halfe
 penny of the Parson, or the Parson
 may expect, according to the last que-
 stion before: *Et ita intelligendum est*
de decima lana. that is, that the same
 ordinance and prouincial constitution is
 had of Woolle.

q. a. p. m. 7

4. Where milke of sheepe is tithed in
 kind, how they be tithable (for their pa-
 sture) in the winter, when they yeeld no
 such profite.

4. If after the feast of S. Martin
 in winter, sheep be estranged from

from Parish to Parish, or els they doe
continue in one & the same parish from
that feast til the hearing day ensuing,
The question is of their tythes: It is
answered, they be tythable thus, viz.
*Habita ratione ad numerum Omnium
pascua estimantur:* that is, the pasture
in this case must be considered (for
want of their milke in this season) by
the head or number of sheepe that bee
depastured and feede therein: and so
shall the tythe be rated and peeced: by
rate & proportion of time: by the mo-
neth, as *Lindwood* interpreteth, and as it
is said of thirty dayes, and by thirties,
and so from thirtie to thirty as in the fifth
Question before of wooll.

The eight Question

Tith { *De fructibus arborum*, Of
trees.

1 Of Apples & such other fruites of
trees, what is their tithable time,

1 fruits

FRUITES of trees, *viz.* Apples, pears,
 & Gardens, the question is of their
 tithable time: It is answered, *Statim*
fructibus collectis, that is, so soon and
 immediately when the fruites shall bee
 gathered, and the reason is, *Quia mi-*
nus soluit qui tardius soluit: that is, He
 diminisheth his duty that delayeth the
 time: If therfore the Parishioner shal
 gather his fruites, and neither pay the
 tithes presently, nor admonish the Par-
 son to receiue them, but subtract them
 or that (otherwise they be impaired or
 lost) the Law sayeth that the parishioner,
 is bound to what satisfaction looke the
 Statute 1 Ed. 6. 13. for fruites be tith-
 able and *Prediall*.

The ninth Question.

Tib { *De Seminibus*, of Seedes, Hemp
 Flaxe, onions, raps & such like.
De Herbis, Of pothearbes.
De Cartelagiis, Of places adioy-
 ning to mansion houses, applied
 to seedes and hearbes,

¶ Of seedes and hearbs, what manner of Tithes they be.

I Seeds and hearbs, *vz.* of Flaxe, Millet, Hemp, Lecke, Onion, Rape, Parcell, Sage, mint, Rue, &c. comprehend under the wordes, *Seminibus herbis curtelagis*, they be tithable, as they be perceived & taken in gardens, or in the fields, either of the seed, or of the same hearb before the seeding time *Nisi parochiani competentem fecerint redemptionem*. Except the parishioners sufficiently shall redeem or compound for the same, these be *Adinut a decima*, that is, small tythes according to the Evangelist, *Ta tythe ihe minte & Rue &c.* and therefore in them no question to be made,

The tenth question.

Tithe. { *De Pannagio sylvarum*, Of
masse of Beech, or Oake, or
such like.

I Of

1 Of masle, what tithe, when it is
giuen. & what tyth when it is sold.

1 **B**Y the prouinciall constitution of
England, the tyth of masle, and of
such other wood and wild fruits be pai-
able *viz. si vendantur* if they be sold,
that is, (as the Glasse inferreth) of the
tenth penny, if they be sold, otherwise,
that is, if the same be franchly and free-
ly receiued and ferd, without conside-
ration of charges to the owner, in this
case *Transseunt fructus cum onere*: that
is, the fruits doe passe with their char-
ges. *viz.* with the burthen of tithes.

THE FOURTH QUE- STION,

Tithe	{	<i>De molendinis</i> , of milles for- ced by wind or water.
		<i>De Vinariis</i> , of Parkes, War- rens, pooles, pondeis.
		<i>De Bestiis quarevarum</i> , Of wilde

wilde beasts vnder custody.

De Columbariis, of Dove houses.

De Apibus, of Bees,

I What manner of Tith they be, and how they be tithable.

I Question hath bene mooued of the tythes of Milles, Parks, poudes, warrens, Dovehouses, and Bees, to this effect, *viz.* whether they be *Prediall* or *Personal*: It is answered, they be *Prediall*, and tithable without deduction of charges, for the reason alleadged in the fourth question. And they bee tythable thus, that is to say, not the tenth of the rent for milles, (as they tearme it) the tenth peny, nor for Bees, the tenth Bee or swarme, or hime, but *de presentibus Molendinorum*, the tenth measure of Corne for milles, and so for Bees the tenth measure of hony, the tenth himege of Ware: by title of ware and hony, the Law and reason is of these tythes, especially

pecially of milles, as of ocher *Prediall*
tythes, whereof (for example) hit is said
Transit herba pascua cum onere suo ad
dominium bestiarum, where groundes
 or pastures, be demised or herbage sold
the owner of the beasts is chargeable
 with the tithes and so is the practice of
 England: look what is said in the third
 question before: Whether bee referred
 Parks, poudes, Dovehouses, &c. For
Fructus transit cum onere suo: that is,
 Fruits be liable to their charges, looke
 in the second question before.

The twelfth question.

Aucupius, of fowling.

Tib de Venationibus, of Hunting.

Piscationibus, of Fishing.

I Beastes and Fishes and Fowles,
 how diversly they be caryed, diversly
 considered.

The profits that bee mentioned and contained vnder the wordes *aucupis, venationibus, piscationibus*, of sowlings, huntings, fishings, question hath bene mooued of the tithes of the same, *viz.* The Parishioners of *N.* one of them fouleth, another hunteth, the third fisheth in the fieldes, groundes, and ri- uers of *B.* the question is, of the tithes, of their advantages taken, and which of the Churches bee entereſſed in the same: *viz.* whether the Church of *N.* where the Parishioners inhabit, or the Church of *B.* where the profits were taken: It is thus answered, if the Parishioners had of the owners and possessors of the places frank and free libertie to sowle, hunt, and fish, the Church of *N.* that is, their owne parish Church shall intirely bee entereſſed in them, as in personall tithes: but if any consideration be required, either in money, or in part of their gaine, that profite only receiued by the owner is *Prediall*, and tithable to the Church of *B.* that is

to say, in that parish where the fields, grounds and rivers do lie: of the residue, that is to say, of the cleare gain' of these beasts, fishes, and foules, all charges and expences, in about, belonging and concerning these profits taken, deducted, then the parishioners that tooke them bee chargeable withall to their parish Church of N. mentioned before, and the reason is, the Fowles Beasts, and Fishes bee taken *artificio, ministerio, & opera hominis*, by the arte labour, and industrie of man, from whence proceedeth personall tythes, payable onely where the Parishioners inhabite: But the consideration mentioned here, required and taken by the owners commeth not by arte or industrie, but *ex humo*, that is, of the ground and earth, from whence do arise al the *Prediall* Tythes, payable onely in the place & parishes within whose bounds and limits they are. Thus they be diuers, these tythes diuersly respected, that is to say, *Prediall* or *Personal*
and

and therefore note the difference. Note
also that where such rythes be deman-
ded, it is, where such are, industrie and
travail is answered and rewarded, not
with pleasure but with profit. Que-
stion hath further bene moved of these
profits and advantages to this effect,
viz. the Parishioners of N. had frank
and free leane and libertie to hunt, fish,
and fowle within the fil:ds grounds me-
dowes, riuers and running streams of
B. thep tooke, preserved and reser-
ued aliae their beastes, fowles and fi-
shes, and so they conueyed them to cer-
taine of their owne proper and priuate
grounds, within the bounds, compasse
and limits of another Parish. neither
in N. where thep dwell, or of B. where
they tooke them, they include there
these Beastes, Fowles, and Fishes
and compasse them within Parkes,
Warrens, Ponder, Pooles, Poo-
ses, such as bee mentioned and com-
prehended vnder the wordes, *Vinari-*

is, *Columbariis*, in the eleventh Que-
 stion before: Thus they feede and
 nourish them: and they breed, and in-
 crease in their kindes: Nowe for that
 these inclosed and limited places doe
 alter and change in latue the nature of
 the profits of the nourished creatures
 within them: which of the Churches
 haue right vnto them? It is answ-
 red, *viz.* They were inclosed at the
 first as they were taken: that is, by
 Arte and industrie of man. Nowe be it
 they doe not increase by industrie and
 arte, but by the nutriment and nou-
 rishment of the waters and groundes
 where they liue by the onely grace
 and bountie of God: and therefore for
 the rate, value, and proportion of
 themselves: these profits remaine as
 they were at the first, that is *Personal*
 tythable to the Church of their Pa-
 rish thatooke them. But their in-
 crease is *Prebiall*, tythable to the
 church within whose limits they be fed
 and

and nourished. The circumstances of these tythes, mentioned in these cases according to that worthy *Hof:ensis* do make them neither merely *Prediall*, nor merely *Personall*, but mixte tythes payable notwithstanding as *Prediall* and *Personall*, diuersly respected, as aforesayd. So consider briefly of al these tythes, that is to say, considered as they be included within compasse, limits, and bounds (from their naturall liberties) tyed and restrained to the same, as in poudes, parkes, warrens, houses and in such like limited places, then they are sayd to be *Prediall* tythes: but considered as the enjoy at their will, their naturall liberties, as fishes the sea: foules the aire, and beastes the fields: in that they are not reckoned of any place certaine, their tythes bee not *Prediall* but *Personall*; touching therefore question herein to be made, to what Churches they be due: It is answered as of *Prediall* and *Personall* tythes, that is, the one to that Church in whose Parish these

these limited places aforesayd do lie,
that do make them *Predial*: The other
to that Church, in whose parish the
person doth inhabite, that maketh them
Personall, and this is the difference.

The thirteenth Question.

*Tithe. { De Cignis, of Swannes.
 { De Anseris, Of Geese.*

1 *Of Swannes, Geese, Duckes, and
howe they be considered.*

1 *Swannes, Geese, and Duckes be
distinguished thus, viz. whether
they be volantes, whether they be wild
and doe flie, or bee tame or not: This
considered the profits be tithable ac-
cordingly: for example, the Cignets,
Si nascuntur in loco certo & suscipiun-
tur à loco certo, that is, if they bee
brought forth, and so be taken in and
from a certaine knowne place, they be
Predial & tithable as *Predial* tithes,*

From incertaine places they be *Personal*, and so they be tythable, viz. as *Personal* Tythes, it is affirmed of them as of beastes, fowles, and fishes, in the Question last before.

The fourteenth question.

Tythes *§ De Onis,*
Of Egges.

I Of Egges, where Tythes be yielded whether chickens be tythable there.

DE Onis, of Eggs it hath bin moved whether chickens be tythable in such places where tythes be yielded of Chickens. By the written lawe it may be answered, as of milke & cheese in the seventh question before, how be it Custom in this case prevaleth as experience sheweth in some partes of this land.

The

The ffteenth Question.

Tube { *De Artificiis, of Craftes and*
Manuall occupation.
De Negotiationibus, of trades
by wares & merchandize.

1 Of personall Tythes; what time, place, and persons be required in them and of whome the Church is forbidden to receiue either Personall tyth or oblation.

TRades, crafts, and manual occupations they be personall, and of their profits do arise meere personall tythes, touching therefore first tythable place, it is answered in the twelfth question before of their tythable time, they be payable at the end of the yeare, and as our custom is at Easter of persons that be chargeable with these Personall tiths it is answered of such persons which of

custome haue, or of right ought to haue
 payd their *Personall tythes*: Looke the
 Statutes ensuing. There are of these
Personall tythes, in diuers cases diuer-
 sities of opinions: but herein they agree
 viz. *Ha decima Personales magis in
 difficultate & subtilitate, quam utili-
 tate consistunt.* These *Personall tythes*
 are more intricate than profitable, only
 this (to conclude) must be noted, that is
 to say, all persons, consideration had, as
 aforesaid, bee bounde to offer their *Per-
 sonall tythes* to the Church, but the
 Church is forbidden (of all persons) to
 receiue them. For example, the Har-
 lot, the Robber, the Usurer: they be
 not exempted, but the Lawe reiecteth
 them, their *Personall tythes* and obla-
 tions. *Non inferas mercedem meretricis.*
 Thou shalt not bring the hire of an
 Whore, nor the price of a dog into the
 house of the Lord: And for the other
Quasius sit ex peccato. Their gaine
 ariseth of sinne: The Church is
 therefore forbidden to receiue them

Ne

*Ne ipsarum videatur approbare turpi-
tudinem. Least the Church shoulde
to approve their iniquities.*

C3

Of

54
OF COMPOSITION,

*Transfation, Custome, Prescription,
Priviledge, how they are al-
lowed, and preuaile
in iudging,*



Composition by the Can-
non Lawes holdeth oꝝ
sayleth diuersly respec-
ted: and it is first to bee
considered of, as it hath
bene made, and had *inter clericos*, be-
twene Clerks themselves, and then
it hath tended either *Transfationis de-
cimis*, that is, to the translating of
Tithes from one Church to another,
and that is, when one Church recei-
ueth Tithes, which be due vnto ano-
ther. And the composition herein hol-
deth, and the reason is, *Non refert qua
Ecclesia decimas habet, modo Ecclesia
persoluantur*: that is, it forceth not of
Tithes, what Church receiueth them
so the Church enioyeth them. How-
beit the nature and kind of the Tithes
thus

thus translated, must bee considered,
namely, whether they be *Personall*, or
Prediall Tythes: if they bee *Personall*,
the Composition that translated them
holdeth not, and the reason is, *No oc-
casio tribuatur euagandi*, & *diuina
extra Parochiam audiendi*. Least oc-
casion should be given to the people of
wandering, and hearing of diuine ser-
uice from their owne parish Churches.

2 If they be *Prediall*, the Compo-
sition holdeth, *intra eum auctoritate
episcopi*, the authoritie & approbation
of the Bishop of the Diocess therunto
had, which Composition shal bind both
the Clerk & his successors, otherwise,
without the Bishops confirmation it shal
but only bind the Clerk that yeelded
therunto, & not touch his successors at all.

3 Of the composition hath tended
Remittendis Decimis, to the remitting
of tythes: or *tota decima clericis remittitur*,
namely, that to a Clerk tythes
should entirely be remitted: this compo-
sition holdeth not, & the reason is, *decima*

*omnino tolli non potest. Tythe may not
wholly be taken away.*

2 Secondly, Composition muste
be considered, as it hath bin had, *Inter
Laicos & Rectores*: that is, betwixt
Lay men and Clerkes: which compo-
sition also must bee respected thus,
namelic, whether it be *De prateritis de-
cimis*, of tythes forepassed, or *de futu-
ris decimis*, of tythes to come. In the
first case this composition also holdeth,
yea, although it be *gratuita*, without
consideration or allowance at all. In
the second case if the Composition bee
ut aliquas decimas non soluant. That
tythes be not payd at all, it is not to be
admitted: If the Composition be, *ut
de integra decima non soluantur*. That
tythe be not wholly payd but in part, it
holdeth: howbeit not other wise but con-
firmed by authority supreme: for the
bishops confirmation herein sufficeth
not, for none could exempt from tithing
nor diminish the quantity of the same,
but the supreme power, as it followeth
in p^riviledge. Of

Of Transaction.

Transaction and Composition do differ in this, the one is *gratuita consensio*, & voluntarie, franke and free agreement of thinges not contended for, which is said to bee Composition: The other, *de re dubia & lite incerta aliquo dato vel relicto pactio*. A forced couenaunt or agreement for somewhat given or receiued of thinges litigious, incertaine, & doubtfull in conuersione.

2 It must be considered of Transaction, as before hath bin said of Composition betwixt Lay men & Clerks, looke Composition 4. Transaction, (if it bee of tythes forpast) holdeth, yea, though the consideration had bee of thinges meere temporall & the reason is, *Fructus decimarum sunt temporales*, [the profite and frutes of tythes be reputed temporall. Transaction, if it be of tythes to come, must bee

be respected according to the time and
 tennme it is made for, namely, whether
 it be made *in tempus modicum*, for a
 short and limited time, or *in perpetu-
 um*, (without limitation) for ever. In
 the firste case it holdeth with the Bi-
 shops approbation and authority: in
 the other case, it holdeth also if it be right
 and interest of the church be doubtful:
 as where the Parishioner pleadeth a-
 gainst the Church, Exemption or Pri-
 uiledge: But where the right of the
 Church is plain and manifest, Trans-
 action holdeth not, otherwise than by
 consent and authority supreme. Trans-
 action is often taken for Compola-
 tion, and one for another.

Of Customs.

Custom by the Canon lawes
 holdeth or sayleth diverslie
 respected, if it bee *De trans-
 ferendis Decimis predialibus*, that is,
 of chaunging and altering of Tithes
 Prebiall

Preciall (as before hath bene spoken
in Composition, it holdeth and is al-
lowed good.

2 If of *Personall Tythes*, as also
before hath bene sayd in Composition,
it holdeth not.

3 *Customs De non soluendis Deci-
mis*, that is, of not yeelding of Tythes
at all, holdeth not, and the reason is,
such a custome is contrarie both to the
Law of nature, and the Law of God.

4 *Customs De minori quantitate
soluenda*, that is, of yeelding lesse than
the tenth in quantity, holdeth in *Per-
sonall Tythes*, only after the opinions of
some, but of others in *Preciall* also:
and practise also both shew and allowe
of the same.

5 *Custom De loco*, that is, of the place
where tythes ought to be left, holdeth.

6 *Custom De tempore*, of the time of
Tythes to be yeelded, holdeth well.

7 *Custom De modo*, of the maner
and form of yeelding Tythes, holdeth
also.

Of

Of Prescription.

Rescription is not much differing from Customs: as before is specified of Transaction and Composition: but the one oftentimes is taken for the other. Notwithstanding herein they differ, *Consuetudo proprie dicitur, quando sui acquiritur in communi, & etiam publici.* It is properly sayde to be Customs, where a right is to many and containeth in common and publicke. *Prescriptio vero quando privata:* that is, Prescription is properly when it is private to one specially.

A Prescription is holden diuerslie, either according to the ciuill law: and that is, where a continuance of possession of cyth hath bene had by the space of twentie yeares, or the space of thirtie or fourtie yeares, and it is good and allowable: or els according to the Common law: and that is taken to be, *contra rem memoriam hominum non existit*

existit: that is, a Prescription bled
time out of mind, the contrarie where
of hath not bene knowne or bled.

Of Priviledge.

Priviledge or exemption is derived
from authority supreme, by the
which vpon iust cause and considerati-
on, sometimes the persons themselves
as the order of Monks called *Cisterci-
enses*, and other religious person were
priviledged, and exempted from tithes.
Sometimes the places were priviled-
ged: as grounds belonging to religi-
ous persons. For example, Monaste-
ries, Priories, Nunries, Colledges,
&c. or other Ecclesiasticall houses, &c.
or any Manors, Plessuages, Parsona-
ges appropriate, or other Heredita-
mentes, which belonged unto the sayd
Monasteries, which were discharged
of and from the payment of tithes, being
in the hands of Abbots, Priors or o-
ther

ther Ecclesiasticall Gournours. Con-
cerning these possessions in Religious
persons. there hath bene sine generall
times speciallie observed: but leauing
those times, I referre the readers only
to the wordes and reading of the Sta-
tute of dissolution of Monasteries, v^z.
Those said Monasteries, & euery per-
son & persons, their heires & assignes
hauiing, &c. shall bee according to their
estates and Titles discharged of pay-
ment of Tythes, in as ample manner
as anie of the sayde Abbots, &c. at the
dayes of their dissolution. Stat. de 3 R
H. 8. 13.

*A Collection of the Statutes
concerning tything.*

Euerie of the Queenes
subiectes shall tralie and
iustly without fraude or
guile, diuide, set out, prelo
and pay al maner of their
p^{er}ciual Tythes, in their proper kind,
as

as they arise and happen, in such maner
and forme as hath bene of right peel-
den, and paid within 40. yeares before
the making of this act (being 4. of Ro.
uerb. 1548) or of right or custome
ought to have bene paid: and no person
shall take or carie away any such or
like tythes, &c. before hee hath fullie
set forth for the tythe therof the tenth
part of the same, or otherwise agreed
for the same Tythes with the Parson.
&c. under the paine of forfeiture of tre-
ble the value of the tythes so, taken or
caried away. 2. Ed. 6. 13.

At all times whensoever the sayde
Peciall Tythes shall be due at the ty-
thing time of the same, it shall be law-
full to every partie to whome any of
them ought to be payde, or his depuy
or servant to see their said tythe to be
trulie set forth, and scuered from the
nine partes, and the same quietlie to
take and carie away. 2. Ed 6. 13.

Curie

If any person carie away his corne
 or haie, or his other *Predial* tithes
 which ought to be paid, or do flap or let
 the Parson, Vicar, &c. or other their
 Deputies, to view, take and carie a-
 way their tithes, by reason whereof
 their said tithes or tithes is lost or hurt,
 then upon due prooffe thereof &c. the
 partie so carrying away shall pay the
 double value of the tithes, &c. besides
 cosses, charges and expences of the
 suite in the same, and to bee recou-
 red before the Ecclesiasticall Judge,
 according to the Queens Ecclesiasti-
 call lawes, 2. Ed. 6, 13.

Every person which shall have any
 beastes or other cattell tithable, go-
 ing or feeding in any wast or common
 ground whereof the parish is not cer-
 tainly knowne, shall pay his tythes for
 the increase and benefite of the sayde
 cattell to the Parson, Vicar, &c. of the
 Parish, Hamlet, Towne, or other
 place wher the owner of the said cattel
 dwelleth

dwelleth: 2. Ed. 13. All such barren
 Heath and waste ground, which before
 this time hath bene barren, and paye
 no tythes, by reason of such barrennes
 and shall bee improoued and conuer-
 ted into arable grounde or meadowe,
 shall after the end of seven yeares next
 after such improouement, pay tythe for
 the corne and hay growing vpon the
 same. But if such barren, &c. hath be-
 fore, &c. bene charged with the pay-
 ment of any Tythes, and the same
 be after improoued and conuerted into
 arable ground or meadowe, then the
 owner thereof shall, during seven yeares
 next following, from & after the same
 improouement pay such kind of tythe as
 was payd for the same before the same
 improouement. 2. Ed. 6. 13.

Great wood of the age of sixen ie-
 peares, or of greater age, sold to Char-
 chartes to their owne profite, or in aid
 of the King in warres, is not tythable,
 nor comprehended vnder this word *Sol-*

as *Cadua.* 45. Ed. 3. 3.

Euery person exercising Mer-
chandise, bargaining and selling, &c.
or other Arte or facurie, being such
kind of persons and in such places as
heretofore within these fourtie yeares
haue accustomedly vsed to pay such
Personall tythes, or of right ought
to pay (other then such as be common
day labourers) shall yearly &c. pay
for his personal tythes, the tenth part
of his cleare gaines, his charges and
expences, &c. deducted. But in all
such places where handicraftes men
haue vsed to pay this tythes &c. the
same custome of payment of tythes
shall be obserued and continued. 2.
Ed. 6. 13.

Euery person which ought to pay
offerings, shall yearly truly paye
them to the Parson, Vicar, &c. at
at such foure offering dayes, &c. as haue
bene accustomed for the paymēt of
the same, and in default thereof to pay
for

for the saide Offeringes, at Easter
then next following. 2. Ed. 6. 13.

No Tythes of Parriages goodes
shall be required of any person with-
in Wales, or the Marches thereof,
neither shall any person bee compelled
to pay Tythe for the Landes or He-
reditamentes, which by the Lawes
and Statutes of this realme, or by any
Priviledge or Prescription, are not
chargeable with the payment thereof,
or that be discharged by composition
rcall. 2. Ed. 6. 13.

If any person after sentence definiti-
tive given against him, obstinately re-
fuse to pay his tythes, or shall other-
wise contemne and disobey the Pro-
cesse and decrees of the Ecclesiasticall
Courtes, &c. then vppon in'ormation
giuen &c. the same partie shall be com-
mitted to warde. 27. H. 8. 10. See
the Statute in all.

If any person after sentence
Definitive given against him, doe ob-
stinately refuse to paie his Tythes,

or shall otherwise contemne and disobey the Proceſſe and Decrees of the Eccleſiaſticall Courtes, &c. then upon information giuen, &c. the ſame partie ſhall.

If any of the parties doe appeale: then the Judge forthwith ſhall adiudge to the other partie the reaſonable coſts of his ſuite therein beſore expended, and take ſurety of the other partie, &c. to what effect, ſee the ſtatute in all, 3 a H. 87.

If anie partie &c. doe ſue for any Prohibition, &c. under the copie of the libell, ſhall bee written the ſuggeſtion wherefore the partie ſo demaunders the ſaide prohibition: and in caſe the ſaide ſuggeſtion by two honeſt and ſufficient witneſſes at the leaſt bee not prooued true in the Courte, where the the ſaide Prohibition ſhall be ſo granted within ſixe monethes next following, &c. then the partie that is hindered of his ſuite in the Eccleſiaſticall Court

Court by such Prohibition &c. shall
 haue a Consultation graunted, &c.
 and shall recouer double costes and
 dammages 2 Ed. 6. 13. and the iud-
 ges before whome the cause was first
 brought in question, shall proceed, not-
 withstanding the Queens prohibition.
 24. Eliz.

*These be summarily the Statutes of
 the land for tything, such as be ex-
 ercised now vnder the happy go-
 vernment of *Queene*
*Elizabeth.**

FINIS.

